

Inner City Press

January 10, 2024

By E-mail to Chambers

Hon. Sidney H. Stein, United States District Judge

Southern District of New York, 500 Pearl Street, New York, NY 10007

Re: Press application to be heard / to unseal Defendant's redacted Motion to Dismiss and other documents placed in vault, in US v. Menendez, 23-cr-490 (SHS)

Dear Judge Stein:

Inner City Press has been covering the above captioned criminal case and earlier today saw Defendant Robert Menendez' redacted motion to dismiss memorandum of law, as well as numerous "Sealed Document[s] placed in vault." This is a Press application to be heard in opposition to the unilateral sealing and redaction of these judicial documents.

The memo of law, Dkt. No. 120, has a major redaction on page 5 about Senator Menendez' trip to Egypt in the fall of 2021, arguing that "[t]he Government shockingly fails to disclose the exculpatory fact that [REDACTION]." The redaction is five full and two partial lines, and is nowhere explained or justified. There are similar redactions on pages 7, 8, 10, 11 -- "We now know why... [REDACTION]," 26, 31 and 33. Likewise, the third numbered paragraph of defense counsel's declaration, Dkt. No. 121, which describes Exhibit B, which is withheld, as is even Exhibit A.

Also now contested are the "documents placed in vault" including but not limited to Docket Numbers 124, 123, 122, 109, 108, 107, 104 and 103.

"Representatives of the press must be given an opportunity to be heard on the question of their exclusion from a court proceeding, and we have recognized a similar right of news media to intervene in this Court to seek unsealing of documents filed in a court proceeding." *Trump v. Deutsche Bank AG*, 940 F.2d 146, 150 (2d Cir. 2019). This Court has previously granted an Inner City Press request to unseal, in *US v. Jen Shah*, 19-cr-833 (SHS), see Dkt. No. 669.

"The common law right of public access to judicial documents is firmly rooted in our nation's history." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006).

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Please docket this challenge to the over-redaction of this sentencing memorandum, as SDNY Judges Hellerstein, Castel, Caproni, Furman and others have done. See, e.g., <https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf> - and see Inner City Press application to seal in this Court's docket in US v. Jen Shah, 19-cr-833 (SHS), Dkt. No. 648 and Order that Defendant response, Dkt. No. 649. Senator Menendez' case is of at least as much public interest, and more public import, than that of Jen Shah and this secrecy cannot stand.

If appropriate, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Sidney H. Stein, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to be heard on sealing or unsealing of Defendant Robert Menendez' redacted motion to dismiss memorandum of law, as well as numerous "Sealed Document[s] place in vault."

If deemed necessary, this now is a request to intervene, see United States v. All Funds on Deposit at Wells Fargo Bank, 643 F. Supp. 2d 577, 580 (S.D.N.Y. 2009)

Please act on, and docket, this request, as soon as possible.

Thank you.

Respectfully submitted,

/s/

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